

# SENATE BILL REPORT

## EHB 1648

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As Reported By Senate Committee On:  
Agriculture & Rural Economic Development, March 26, 2007

**Title:** An act relating to agricultural operations, activities, and practices.

**Brief Description:** Increasing protections for agricultural operations, activities, and practices.

**Sponsors:** Representatives B. Sullivan, Kretz, Grant, Linville and Strow.

**Brief History:** Passed House: 2/28/07, 97-0.

**Committee Activity:** Agriculture & Rural Economic Development: 3/15/07, 3/26/07 [DPA, w/oRec].

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### SENATE COMMITTEE ON AGRICULTURE & RURAL ECONOMIC DEVELOPMENT

**Majority Report:** Do pass as amended.

Signed by Senators Rasmussen, Chair; Hatfield, Vice Chair; Schoesler, Ranking Minority Member and Shin.

**Minority Report:** That it be referred without recommendation.

Signed by Senator Jacobsen.

**Staff:** Sam Thompson (786-7413)

**Background:** In a nuisance lawsuit, a plaintiff may sue a defendant property owner based on the claim that the defendant makes unreasonable use of his or her property to the detriment of the plaintiff's property. A plaintiff may, for example, seek to prevent or limit noise or odors.

The Washington Right to Farm Act provides that certain agricultural activities and forest practices are, if consistent with good practices and established prior to surrounding non-agricultural and non-forestry activities, presumed to be reasonable, and therefore have some protection from being prohibited in a nuisance lawsuit judgement. It is suggested that these provisions should be clarified and enhanced.

**Summary of Engrossed Bill:** Activities with limited protection from nuisance lawsuits under the Washington Right to Farm Act (Act) include agricultural and forest "operations," a term defined to include production of farm or forest products. The definition of "agricultural activity" in the Act is revised to include keeping of bees for pollination of agricultural products and gardens.

**EFFECT OF CHANGES MADE BY RECOMMENDED AMENDMENT(S) AS PASSED COMMITTEE (Agriculture & Rural Economic Development):** Changes: (1)

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address a limit in the bill's title by deleting language regarding forest practices and operations; (2) clarify that keeping of bees for producing agricultural or apicultural products (honey, beeswax, etc.) is protected; (3) clarify that a change in the type of plant-related farm product being produced is protected; (4) protect use of new practices and equipment consistent with technological development within the agricultural industry; and (5) add shellfish production to protected activities.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: This legislation addresses concerns recently raised in two nuisance lawsuits arising in Yakima County in which courts ruled that changes in agricultural uses were new uses that were not protected by the Act. As rural areas become increasingly urbanized, farmers need enhanced protection under the Act to cultivate new crops and use new agricultural methods. Shellfish production should be protected under the Act.

**Persons Testifying:** PRO: Representative Sullivan, prime sponsor; Jim Jesernig, Washington State Potato Commission, Washington Association of Conservation Districts, Pacific Coast Shellfish Growers Association; Jim Armstrong, Spokane County Conservation District.